

CHAPTER 24:05:16

PERSONNEL DEVELOPMENT AND STANDARDS

Section

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24:05:16:01. Comprehensive system of personnel development. ~~The division shall establish and implement a comprehensive system of personnel development that:~~

- ~~(1) Is consistent with the purposes of Part B and Part C of the Individuals with Disabilities Education Act;~~
- ~~(2) Is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel;~~
- ~~(3) Meets the requirements of this chapter; and~~
- ~~(4) Is updated at least every five years.~~

~~If the state receives a state improvement grant under Part D of the Individuals with Disabilities Education Act, the state shall have met the requirements of this section~~
Repealed.

Source: 16 SDR 41, effective September 7, 1989; 19 SDR 29, effective August 30, 1992; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: ~~SDCL 13-37-1.1.~~

Law Implemented: ~~SDCL 13-37-1.1.~~

24:05:16:01.02. Adequate supply of qualified personnel. ~~The division's comprehensive system of personnel development shall include an analysis of state and local needs for professional development for personnel to serve children with disabilities. The analysis shall include, at a minimum:~~

~~(1) The number of personnel providing special education and related services;~~

~~(2) Relevant information on current and anticipated personnel vacancies and shortages, including the number of individuals described in subdivision (1) with temporary certification; and~~

~~(3) Relevant information on the extent of certification or retraining necessary to eliminate these shortages that is based, to the maximum extent possible, on existing assessments of personnel needs~~ Repealed.

Source: 26 SDR 150, effective May 22, 2000.

General Authority: ~~SDCL 13-37-1.1.~~

Law Implemented: ~~SDCL 13-37-1.1.~~

24:05:16:01.03. Improvement strategies. ~~The division shall describe the strategies the state will use to address the personnel needs identified under this chapter. The strategies shall include in-service and preservice preparation to ensure that all personnel who work with children with disabilities have the skills and knowledge necessary to meet the needs of the children. The strategies shall include both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services. The division's strategies shall include a description of how:~~

~~(1) The state will prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of children with disabilities including how the state will work with other states on common certification criteria;~~

~~(2) The state will prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the needs of infants and toddlers with disabilities;~~

~~(3) The state will work with institutions of higher education and other entities that, on both a preservice and an in-service basis, prepare personnel who work with children with disabilities to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet state and local needs;~~

~~(4) The state will work to develop collaborative agreements with other states for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single state to justify support or development of such a program of preparation;~~

~~(5) The state will work in collaboration with other states, particularly neighboring states, to address the lack of uniformity and reciprocity in credentialing of teachers and other personnel;~~

~~(6) The state will enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of children with disabilities that impedes the learning of children with disabilities and others;~~

~~(7) The state will acquire and disseminate to teachers, administrators, school board members, and related services personnel significant knowledge derived from educational research and other sources, and how the state will, if appropriate, adopt promising practices, materials, and technology;~~

~~(8) The state will recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are under-represented in the fields of regular education, special education, and related services;~~

~~(9) The plan is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed and carried out under other federal and state laws that address personnel recruitment and training; and~~

~~(10) The state will provide for the joint training of parents and special education, related services, and general education personnel~~ Repealed.

Source: 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:16:02. Definitions. Terms used in this chapter mean:

~~(1) "Appropriate professional requirements," those entry level requirements that are based on the highest requirements in the state applicable to the profession or discipline in which a person is providing special education or related services, including early intervention and early childhood services, and that establish the qualifications for personnel providing such services under this article to infants, toddlers, children, and youth with disabilities who are served by state, local, and private agencies;~~

~~(2) "Highest requirements in the state applicable to a specific profession or discipline," the highest entry level academic degree needed for any state approved or state recognized certification, licensing, or registration or other comparable requirements that apply to that profession or discipline;~~

~~(3) "Profession or discipline," a specific occupational category that provides special education and related services, including early intervention and early childhood services, to infants, toddlers, children, and youth with disabilities under this article; has been established or designated by the state; has a required scope of responsibility and degree of supervision; and is not limited to traditional occupational categories; and~~

~~(4) "Qualified personnel," personnel who meet certification, licensing, registration, or other comparable requirements approved or recognized by the division for the profession or discipline in which the person is providing special education or related services, including early intervention and early childhood services~~ Repealed.

Source: 16 SDR 41, effective September 7, 1989; 19 SDR 29, effective August 30, 1992; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: ~~SDCL 13-37-1.1.~~

Law Implemented: ~~SDCL 13-37-1.1.~~

Cross-Reference: ~~Teacher certification, art 24:02.~~

24:05:16:05. Staff development component in school district's comprehensive plan. The staff development section of each school district's comprehensive plan shall include information to demonstrate that:

(1) All personnel necessary to carry out Part B of the Individuals with Disabilities Education Act within the jurisdiction of the district are appropriately and adequately prepared; and

(2) District policies and procedures are consistent with the requirements of this chapter and the federal Elementary and Secondary Education Act, as amended to January 1, 2007.

~~To the extent that a school district determines appropriate, the district shall contribute to and use the division's comprehensive system of personnel development.~~

Each school district shall take measureable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this article to children with disabilities.

Source: 16 SDR 41, effective September 7, 1989; 19 SDR 29, effective August 30, 1992; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:16:08. Content of personnel needs assessment. ~~The division shall collect personnel needs assessment data from all public agencies responsible for the provision of special education and related services, including early intervention and early childhood services, to infants, toddlers, children, and youth with disabilities, birth through 21 years~~ Repealed.

Source: 16 SDR 41, effective September 7, 1989; 19 SDR 29, effective August 30, 1992; 20 SDR 33, effective September 8, 1993; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: ~~SDCL 13-37-1.1.~~

Law Implemented: ~~SDCL 13-37-1.1.~~

24:05:16:08.01. Personnel needs assessment -- Determination of qualified personnel. ~~In addition to the information collected under § 24:05:16:08, the division shall collect information required to determine:~~

~~(1) The number and type of personnel, including early intervention and early childhood personnel, employed in the provision of special education and related services, including early intervention and early childhood services, by profession and discipline;~~

~~(2) The number and type of personnel who are employed with emergency, provisional, or temporary certification, licensure, or other credentials comparable to certification or licensure for the profession or discipline; and~~

~~(3) The number and type of personnel, including early intervention and early childhood personnel, in each profession or discipline needed and a projection of the numbers of those personnel that will be needed in five years, based on the projections of individuals to be served, retirement, and other departures of personnel from the field and other relevant factors~~ Repealed.

Source: 19 SDR 29, effective August 30, 1992; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: ~~SDCL 13-37-1.1.~~

Law Implemented: ~~SDCL 13-37-1.1.~~

24:05:16:16. Personnel standards qualifications. To ensure that all personnel necessary to carry out the purposes of Part B and Part C of the Individuals with Disabilities Education Act are appropriately and adequately prepared and trained, including ensuring that those personnel have the content knowledge and skills to serve children with disabilities, the division department shall determine that all personnel providing special education or related services, including related services, paraprofessionals and assistants, early intervention, and early childhood personnel, perform these functions under state-approved or state-recognized certification or licensure or other comparable requirements that apply to the area in which the person is providing instruction or other service special education or related services. The

department shall ensure that related services personnel who deliver services in their discipline or profession meet the requirements of this section and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

Source: 16 SDR 41, effective September 7, 1989; 19 SDR 29, effective August 30, 1992; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

~~**24:05:16:16.02. Shortage of personnel.** School districts shall make an ongoing good faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services to children with disabilities. If there is a shortage of personnel in a geographic area of the state who meet state qualifications, the most qualified individuals available may be hired. These individuals must be making satisfactory progress toward completing the applicable course work necessary to meet state standards. Course work must be completed within three years.~~

~~The division shall use its comprehensive system of personnel development for addressing shortages and for serving children with disabilities if instructional needs exceed available personnel who meet appropriate professional requirements in the state for a specific profession or discipline~~ Repealed.

Source: 26 SDR 150, effective May 22, 2000.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:16:16.03. Requirements for highly qualified special education teachers - Teaching core academic subjects. For any public elementary or secondary school special education teacher teaching core academic subjects, the term, highly qualified, has the meaning given the term in ESEA, except that the requirements for highly qualified also include:

- (1) The requirements described in § 24:05:16:16.04; and
- (2) The option for teachers to meet the requirements of ESEA by meeting the requirements of § 24:05:16:16.05 and 24:05:16:16.06.

A teacher who is highly qualified under this section is considered highly qualified for purposes of the ESEA.

The requirements in this section do not apply to teachers hired by private elementary schools or secondary schools, including private school teachers hired or contracted by school districts to provide equitable services to parentally-placed private school children with disabilities under chapter 24:05:32.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:16:16.04. Requirements for highly qualified special education teachers

- - General. For any public elementary school or secondary school special education teacher teaching in South Dakota, being highly qualified requires that:

(1) The teacher has obtained full state certification as a special education teacher, or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher;

(2) The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(3) The teacher holds at least a bachelor's degree.

Any public elementary school or secondary school special education teacher teaching in the state who is not teaching a core academic subject is highly qualified if the teacher meets the requirements in this section.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:16:16.05. Requirements for highly qualified special education teachers

- - Teaching to alternate achievement standards. For any special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards, being highly qualified means the teacher, whether new or not new to the profession, may either:

(1) Meet the applicable requirements of the ESEA for any elementary, middle, or secondary school teacher who is new or not new to the profession; or

(2) Meet the requirements of the ESEA as applied to an elementary school teacher, or, in the case of instruction above the elementary level, meet the requirements of the ESEA as applied to an elementary school teacher and have subject matter knowledge appropriate to the level of instruction being provided and needed to effectively teach to those standards, as determined by the state.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:16:16.06. Requirements for highly qualified special education teachers

- - Teaching multiple subjects. For any special education teacher, who teaches two or more core academic subjects exclusively to children with disabilities, being highly qualified means that the teacher may either:

(1) Meet the applicable requirements of the ESEA;

(2) In the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession, which may include a single, high objective uniform state standard of evaluation covering multiple subjects; or

(3) In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate, not later than two years after the date of employment, competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher, which may include a single highly objective uniform state standard of evaluation covering multiple subjects.

A fully certified regular education teacher who subsequently becomes fully certified or licensed as a special education teacher is a new special education teacher when first hired as a special education teacher.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:16:16.07. Right of action. Notwithstanding any other individual right of action that a parent or student may maintain under this article, nothing in this article creates a right of action on behalf of any individual student or class of students for the failure of a particular state or school district employee to be highly qualified, or to prevent a parent from filing a complaint under chapter 24:05:15 about staff qualifications with the department as provided for under this article.

Source:

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

24:05:16:17. Professional standards review. ~~The division shall review the professional requirements in the state necessary for the provision of special education or special education and related services, including early intervention and early childhood services. This professional standards review includes the standards of the Division of Education Services and Resources, the Division of Vocational Rehabilitation, the Department of Health, the Department of Human Services, the State Board of Medical and Osteopathic Examiners, the State Board of Examiners of Psychologists, the State Board of Optometry, and any other body responsible for licensure or certification. In conducting this review, the division must do the following:~~

~~(1) Determine the highest standards applicable to each profession or discipline;~~

~~(2) Identify those professions or disciplines for which the highest requirements of the state do apply;~~

~~(3) Identify those professions or disciplines for which the highest professional standards of the state do not apply; and~~

~~(4) For those professions or disciplines for which the highest requirements of the state do not apply, detail steps the state is taking to require the retraining or hiring of personnel that meet the appropriate professional requirements in the state Repealed.~~

Source: 16 SDR 41, effective September 7, 1989; 19 SDR 29, effective August 30, 1992; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000.

General Authority: ~~SDCL 13-37-1.1.~~

Law Implemented: ~~SDCL 13-37-1.1.~~

24:05:16:19. Early childhood special education teacher. ~~By July 1, 1997,~~ a A school district that is operating an early childhood special education program must employ a teacher who meets all the requirements of § 24:02:03:21.02.

Source: 18 SDR 158, effective March 31, 1992; 23 SDR 31, effective September 8, 1996.

General Authority: SDCL 13-1-12.1.

Law Implemented: SDCL 13-37-1.1.